

Translation

PCT

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference M/43079-PCT	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/003212	International filing date (day/month/year) 27 March 2003 (27.03.2003)	Priority date (day/month/year) 28 March 2002 (28.03.2002)
International Patent Classification (IPC) or national classification and IPC C07D 213/26		
Applicant BASF AKTIENGESELLSCHAFT		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 5 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 24 October 2003 (24.10.2003)	Date of completion of this report 27 April 2004 (27.04.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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International application No.

PCT/EP2003/003212

I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
pages _____ 1-42 _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☒ the claims:
pages _____, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages _____ 1-12 _____, filed with the letter of 19 February 2004 (19.02.2004)
- ☐ the drawings:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-12	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-12	NO
Industrial applicability (IA)	Claims	1-12	YES
	Claims		NO

2. Citations and explanations

The applicant has submitted new claims 1 to 12, which are based on the original disclosure.

As regards the international search report and the documents cited by the applicant in the description, the subject matter of the application differs structurally from D1 (WO 01/95721) by the present "Het" substituent group, compared with phenyl in D1.

D2 (WO 96/23763) discloses alkoxyiminoacetic acid derivatives; D3 (WO 96/17840) discloses hydroxyacetamido compounds which differ by virtue of the present acrylamide group double bond.

The intermediate products (II') claimed *per se* are not described in the prior art, since the corresponding reaction stage already covers intermediate products having a double bond, and are thus likewise considered novel.

The requirements of PCT Article 33(2) are met.

The problem of interest appears to be that of preparing novel 2-**heteroaryl**alkeneamide derivatives which have an unexpectedly better herbicidal effect than the 2-

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phenylalkeneamides (acrylamides) in D1 (table I) (page 2, lines 9 to 12).

Moreover, the prior art (D2 and D3) discloses further N-phenylalkylamides as herbicides. In this connection, reference is made to the specifically disclosed compounds 1 to 141 in D3, which differ by virtue of the present double bond, and have both a 2-heteroaryl- and a 2-phenyl-substituent group.

The closest prior art is considered to be D1, in particular example I-32 (page 36), which also has the novel trans-configuration at the double bond. The applicants have not indicated any advantages over the closest prior art (D1) which could be derived from the introduction of the novel 2-heteroaryl group. Reference is made only to the advantages of the trans-compounds according to the subject matter of the application *per se*, without mentioning the structurally closest example, I-32 in D1.

The intermediate products (II') claimed *per se*, according to claim 9, neither have the novel structural feature nor can be further used directly in an inventive manner; they could thus not be considered in the same inventive concept as the end products (I).

The requirements of PCT Article 33(3) are not considered to be met.